



HARMONIZED SYSTEM
REVIEW SUB-COMMITTEE

NR0112E1

-
22nd Session
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O. Eng.

Brussels, July 14 2000.

POSSIBLE AMENDMENTS TO THE NOMENCLATURE
TO CLARIFY THE DISTINCTION BETWEEN HEADINGS 19.05 AND 20.05

(Item III.B.2 on Agenda)

Reference documents :

42.066 (HSC/21)	42.750, Annex H/2 (HSC/22 - Report)
42.114 (HSC/21)	NC0105E1 (HSC/24)
42.100, Annex IJ/21 (HSC/21 - Report)	NC0128E1 (HSC/24)
42.501 (HSC/22)	NC0160E2, Annex F/1 (HSC/24 - Report)
42.503 (HSC/22)	NC0250E2, Annex H/9 (HSC/25 – Report)

I. BACKGROUND

1. At its 22nd Session (November 1998), the Harmonized System Committee examined the classification of "POM-BÄR" – Potato Snacks" having the following composition : potato powder (about 31 %), vegetable oil, starch, modified starch, salt, sugar, emulsifier (lecithin), yeast extract and spices, fried in oil and ready for consumption. The snacks, which were put up in a packing (plastic bag) for retail sale, were yellowish and in the shape of bears. The Committee decided, by 12 votes to 6, to classify "POM-BÄR" in heading 19.05 rather than in heading 20.05.
2. At its 24th Session, the HS Committee adopted a Classification Opinion with regard to the product in question.
3. At its 25th Session (March 2000), the Harmonized System Committee examined possible amendments to the Nomenclature and/or Explanatory Notes to clarify the classification of certain crisps in heading 19.05. Subject to certain modifications, the Committee adopted amendments to the Explanatory Notes to headings 19.05 and 20.05 based on a proposal by the EC submitted during the meeting. These amendments, which indicate that heading 19.05 also covers products made from flour, meal and powder of potatoes, are set out in Annex P/3 to Doc. NC0250B2.

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4. The Committee also agreed to look into possible amendments to the legal texts and requested the Secretariat to prepare a proposal to the Review Sub-Committee for examination at its next session.

II. SECRETARIAT COMMENTS

5. In paragraph 11 of Doc. NC0128E1, the Secretariat expressed the view that the new Classification Opinions and the proposed amendments to the Explanatory Notes would provide sufficient guidance as to the classification of the products in question, and that legal amendments, therefore, should not be necessary. The Secretariat is still of that opinion. However, since the HS Committee was of another opinion, the Secretariat has considered possible amendments with regard to the relevant legal texts; namely headings 19.05 and 20.05, Note 2 to Chapter 19 and the Notes to Chapter 20.
6. The classification of "'POM-BÄR" – Potato Snacks" in heading 19.05, rather than in heading 20.05, was decided by application of GIR 1 (see Doc. 42.750, Annex H/2, paragraph 11). The Secretariat is of the view that the texts of the headings involved (headings 19.05 and 20.05) provide a good description of the coverage of those headings and that it would not be necessary to amend these texts.
7. At the HS Committee's 22nd Session, the US Delegate pointed out that Note 2 to Chapter 19 would apply only to heading 19.01 (see Doc. 42.750, Annex H/2, paragraph 3). The Secretariat shares this view and is of the opinion that it would be inappropriate to amend this Note.
8. It therefore appears that the possible legal amendments should be restricted to the Notes to Chapter 20. In this connection, it should be noted that, at its last Session, the HS Committee decided to insert a new exclusion for crisp savoury food products of heading 19.05 in the Explanatory Note to heading 20.05. The Secretariat believes that a similar approach could be taken as regards the legal Notes of Chapter 20. This exclusion Note should be drafted in a more general way so that the scope of the two headings could be clarified.
9. The Secretariat would therefore propose that a new exclusion Note, which excludes bakers' wares and the other products of heading 19.05 from Chapter 20, be added to Note 1 to Chapter 20. This new exclusion Note (new Note 1 (c) to Chapter 20) could therefore read :

"(c) Bakers' wares and other products of heading 19.05."

III. CONCLUSION

10. The Sub-Committee is invited to consider the proposal for amending the legal texts to Chapter 20, as set out above, taking into account the comments of the Secretariat in paragraphs 5 to 9 above.
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